

CFERS, LLC Corrections & Objections to Order Issuing Site Permit
RE: Docket # IP 6605/WS-06-1445

CFERS, LLC respectfully requests the Minnesota Public Utilities Commission suspend the order issued 18 July 2007 and reconsider this matter for the following reasons that affect the “Findings and Conclusions” of the Commission’s Order issued 18 July 2007:

1) p.3, Sec. B, C-BED Issues; CFERS, LLC asserts that the C-BED Project qualification is germane to the Commission in this docket. CFERS request of May 2, 2007 to Assistant Commissioner for Renewable Energy Mr. Mike Bull for disclosure of the PPA file under the MN Data Practices Act went unfulfilled. Mr. Bull informed Ms. Carol Overland, CFERS legal representative, that the file was “missing”. CFERS again asserts that the ownership structure of Kenyon Wind, LLC is important to the public’s interest in knowing that the intentions of legislators was properly served by the nine LLC’s operating under the Kenyon Wind, LLC structure. If there are any improprieties in qualifying for C-BED status, Kenyon Wind’s application would be disqualified according to statute. Without being able to review the Department of Commerce PPA file, CFERS has questions about their ownership structure that deserve to be clarified. It becomes even more important to understand Kenyon Wind, LLC’s structure in the event that legal recourse is necessary to recover damages from future situations associated with their enterprise.

2) p.3, Sec. C, Set-Backs; CFERS, LLC is justified in raising concerns about Site Permit setbacks. CFERS again states that siting setback distances may have been appropriate for other prior projects with smaller wind turbines or more remote locations such as Buffalo Ridge—but these are not relevant or appropriate for the Kenyon Wind Project. Kenyon Wind, LLC’s assertion that Northfield’s two existing wind turbines justify the stated setback is also flawed, as they are unique, separate installations located several miles apart vs the nine larger turbines to be installed in the Kenyon Wind Project area. The Department of Commerce argument that the setback distances were reasonable due to the fact of no tower collapses or tip-overs anywhere else in the country is also incorrect. Such an event did occur in Weatherford, OK in May 2005 with a GE 1.5 MW machine. In addition to inadequate research, the Department of Commerce fails to understand that CFERS’ concern about setbacks is not limited to tower collapse or tip-over. Greater concern has been expressed about other wind turbine failure modes including but not limited to: projectile throw, blade failure, icing, nacelle fires and other adverse events that more frequently threaten the public safety. Over 370 failures have already occurred worldwide and are documented in the website www.caithnesswindfarms.co.uk, noting their conclusion that this tabulation is probably understated. CFERS, LLC requests the Commission order the Department of Commerce to increase the setbacks for this project to at least 500 feet from a township road, and 1000 feet from a county road, MN state highway, or from a residence or occupied building. Prior permitting practices are not acceptable logic

to guarantee public safety. Must there be an injury or casualty in Minnesota to sway the argument towards Safety and preventive action?

3) p.4, Sec. D, Wetlands; CFERS, LLC never stated nor went on record at any time saying that Kenyon Wind was locating a turbine IN a wetland—rather we recently learned in June 2007 that the new location for Turbine #1 would encroach upon the wetland created by Spring Creek, which is clearly shown on the USFWS NWI Wetlands national registry. This clearly contradicts Kenyon Wind’s application (January 26, 2007; p.32, Sec 7.15 Wetlands) where they state “There are no protected wetlands in the vicinity of the proposed Projects.” The encroachment is based on the comment entered into the record by the MN DNR on the Fenton Wind Project where a setback of 5 RD (Rotor Diameter) was urged to minimize avian mortality and other adverse impacts upon the local environment. For the Suzlon S88 to be used in the Kenyon Wind Project, the recommended setback would be nearly 1500 ft--which would disqualify the current siting proposal adjacent to Goodhue County Rd #12. Though the Department of Commerce states that the Department of Natural Resources (DNR) has expressed no concerns about this project, CFERS conversations with DNR officials seems to indicate that this is more likely to be related to a lack of resources to conduct an appropriate onsite review as opposed to some perceived benign endorsement. CFERS, LLC requests that the Commission consider ordering an independent review of the dates and content of records, reports, or contemporaneous notes from any communications between the DNR, the DOC and Kenyon Wind, LLC prior to the Final Site Permit.

4) p.5, Sec E, Failure Mode Effects Analysis; (For the record, the correct title should be “Failure Mode & Effects Analysis”.) The basis of the request to Suzlon to produce the FMEA documentation is that two of the first three S88 turbines to be installed in the United States were sited in the Lake Wilson, MN in late 2006 and BOTH TURBINES SUFFERED CATASTROPHIC FAILURE from a runaway rotor condition during their commissioning. The rotors weigh around 30 Tons each and fragmented during the runaway condition—scattering debris around the project area. As this type of failure should NEVER be allowed to occur, noting that it DID OCCUR twice is inconsistent with the DOC’s statement “that the Suzlon turbine is a proven utility grade turbine, not a prototype.” CFERS, LLC never stated the S88 was a prototype, rather we are extremely concerned that this model has only recently been released and in spite of DOC and Kenyon Wind, LLC’s claims of its worthiness and Germanischer Lloyds certification these two failures occurred in Lake Wilson, MN.

During a public meeting in Kenyon, MN on March 20, 2007 Ms. Michelle Montague, Suzlon Marketing Manager, presented a Power Point presentation that claimed a Failure Modes & Effects Analysis (FMEA) was performed by Suzlon to assure that the runaway rotor problem had been addressed. It seemed quite unusual that her presentation slides appeared to echo verbatim the verse of the letter I had written to the MN PUC and to the Kenyon Leader local newspaper. During this public meeting, I asked Ms. Montague for a copy of that FMEA—or if Suzlon found it to

be a sensitive, confidential document, then an independent technical expert should be appointed to review the document and comment. The following day, I received an e-mail from Ms. Montague indicating her technical expert was out of the office until the following Monday and that she would be in contact with me after she learned more about the FMEA process. When no further communication was received from Ms. Montague, I sent additional e-mails to her on 29 March 2007 and 4 April 2007. I then called her cell-phone and she informed me that Suzlon had given Kenyon Wind LLC the FMEA information and now had an agreement with The Daniels (John & Lisa Daniels of Kenyon Wind, LLC) that they would handle all communications between Suzlon and me. When I indicated that no one had informed me of this new arrangement, Ms. Montague said she requested The Daniels “on three occasions to send me this information”. I protested that this new arrangement violated her prior commitment to me to provide the FMEA, and noted that the original two failures of the Suzlon S88 in Lake Wilson, MN were incidents on an installation not affiliated with the Kenyon Wind Project. It appeared to me that Kenyon Wind LLC was interfering with CFERS access to information that would help us understand whether the root-causes of the Suzlon S88 failures had been thoroughly addressed—and whether there were any other potential failure modes.

The FMEA process is an essential tool to assure that all possible failure modes are identified—then their causes preferably eliminated, or their consequences (effects) diminished, or contributing factors reliably detected prior to their occurrence. Modern Quality Management philosophy recognizes that “products” are the result of a series of interacting “processes”. A catastrophic failure of the S88 Wind Turbine, as experienced on two of the first three units installed in the United States, should never happen if a robust development PROCESS exists. By the very fact that such a failure DID occur (and on two units), one must seriously challenge the integrity of the Suzlon S88 and the processes that developed and manufactured it. Due to the potential risk to Public Safety, government should assure that a thorough forensic analysis was conducted using FMEA’s and other Quality Tools. Rather than being concerned about this problem, Kenyon Wind, LLC and the MN Department of Commerce instead hide behind the fact the S88 has been certified by Germanischer Lloyds and/or the International Electromechanical Commission—though we have not been informed to which specific International Standard by number (ISO #). In spite of whatever certification, the two failures occurred nonetheless. Unless a board of qualified independent technical experts is convened to review the failure analysis and FMEA, the public will have no confidence in this industrial equipment and may be exposed to other yet unidentified risks.

5) p.7, Sec. H, Bonding; CFERS, LLC is concerned that the “nine LLC’s under the Kenyon Wind, LLC umbrella” will be problematic for anyone trying to litigate to recover potential damages from any liability occurring in conjunction with the design, development, installation, operation, or related event associated with the Kenyon Wind Project. In order to protect the public’s interest and to assure that any liability can be covered, it is appropriate for the Commission to insist on

bonding, insurance, or other appropriate guarantee. Any responsible electrical generating company has the foresight and integrity to carry such financial coverage in the event that reasonably foreseen incidents occur. With the nature of LLC's, appropriate financial recovery from unfortunate incidents or liabilities is hampered, if not improbable.

SUMMATION

Citizens For Environmental Rights & Safety (CFERS), LLC respectfully requests that the Minnesota Public Utilities Commission carefully reconsider the five points raised in this submittal. Furthermore we ask that the Commission suspend or retract the Final Site Permit that was originally issued 18 July 2007 pending a thorough validation and investigation of these facts by an independent organization outside of the Department of Commerce in light of the substance noted in our submittal.

Respectfully submitted,

**Michael W. Chase
President, CFERS, LLC**

Attachments:

- 1) MN Data Practices Act Request by Carol Overland, Attorney for CFERS, LLC**
- 2) USFWS NWI Wetlands Map of Spring Creek**
- 3) Four (4) Photos from Lake Wilson, MN Suzlon S88 Runaway Rotor Failures**
- 4) Contemporaneous Notes from Communications and Phone Conversation with Ms. Montague regarding CFERS, LLC request for FMEA, 4 April 2007.**

Carol A. Overland
Attorney at Law
OVERLAND LAW OFFICE
P.O. Box 176
Red Wing, Minnesota 55066

(612) 227-8638

overland@redwing.net

Fax: call to arrange

May 2, 2007

Michael Bull
Assistant Commissioner
Minnesota Department of Commerce
85 - 7th Place East, Suite 500
St. Paul, Minnesota 55101

RE: DATA PRACTICES ACT REQUEST
Kenyon Wind Project - Goodhue County

Dear Mr. Bull:

I'm looking at your May 16, 2006, determination that the Kenyon Wind Project "meets the definition of Community-Based Energy project under Minn. Stat. §216.1612, subd. 2."

Under the Minnesota Data Practices Act, I'd like to review the file with scanner in tow at your (the Department's) earliest convenience after May 20.

Thanks for your consideration in this matter.

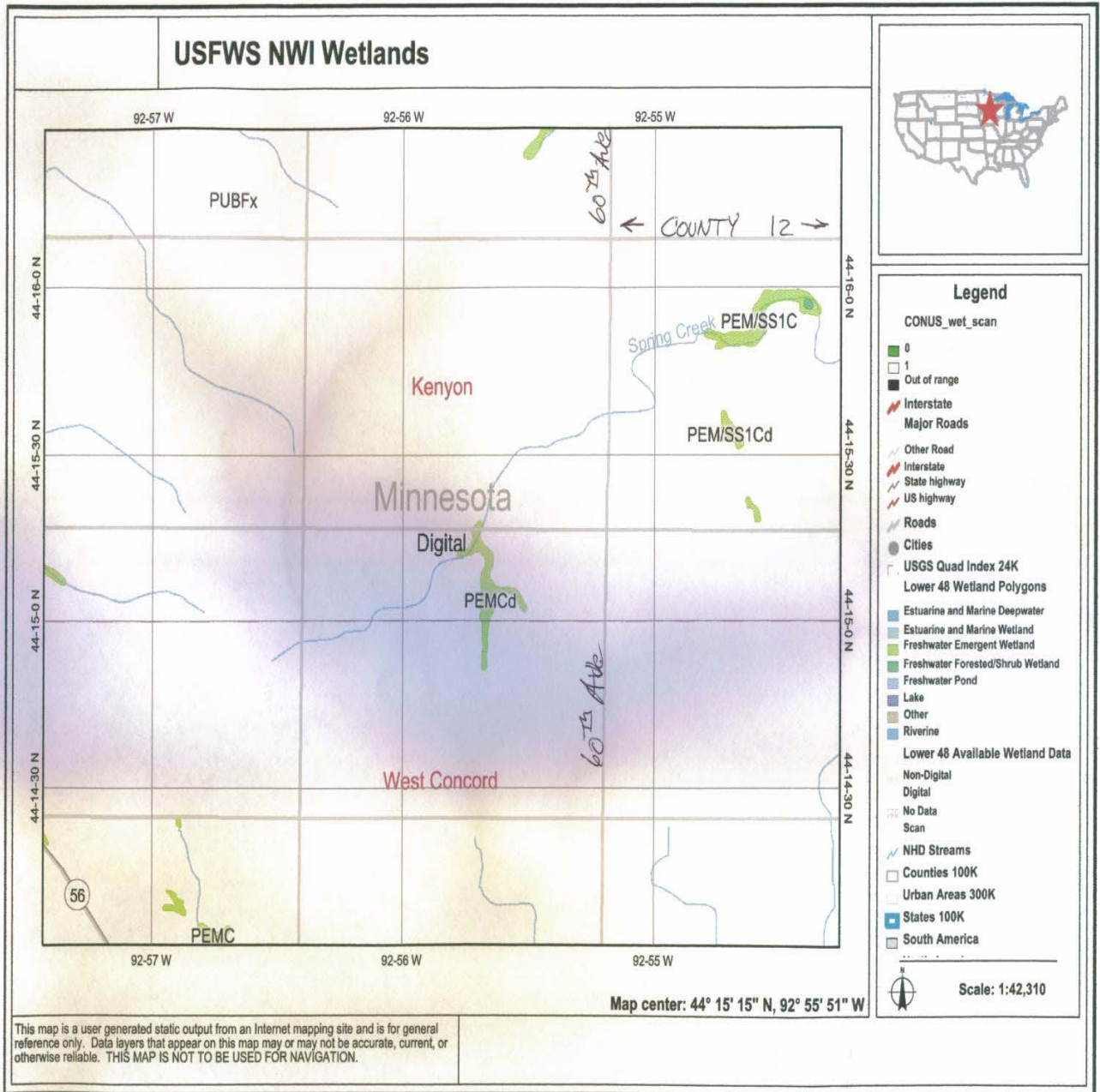
Very truly yours,

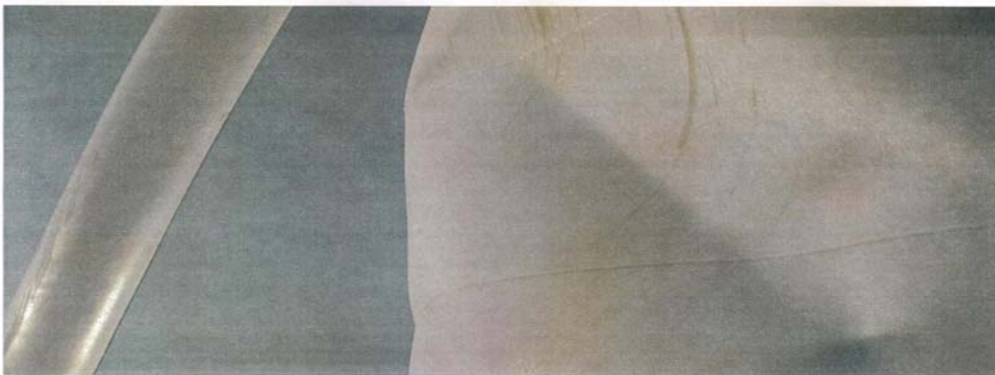
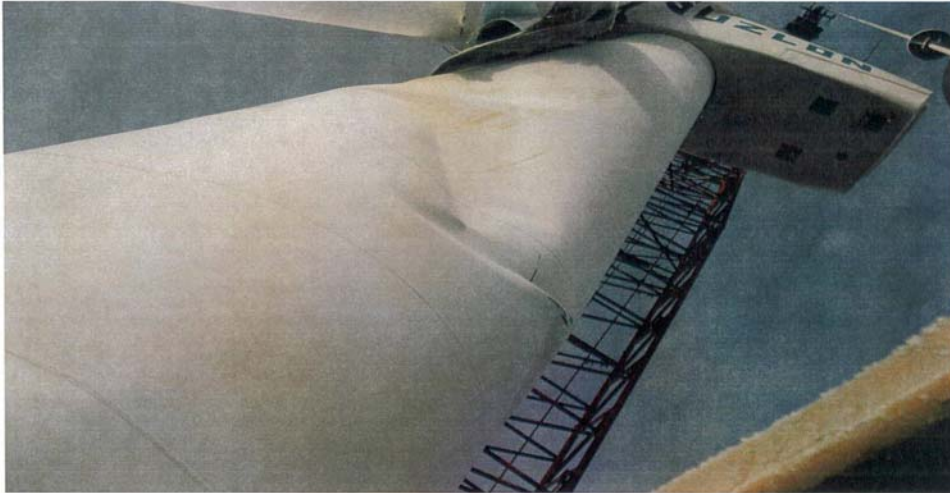


Carol A. Overland
Attorney at Law

Cc: Mike Chase, CFERS

FOCUSED VIEW







Date:	Wed, 4 Apr 2007 21:16:15 -0700 (PDT)
From:	"Mike Chase" <mwchase_kenyon@yahoo.com>
Subject:	Conversation with Michelle Montague
To:	"Carol Overland" <overland@redwing.net>

HTML Attachment [[Scan and Save to Computer](#)]

Carol,

This will serve as "contemporaneous notes" regarding my phone conversation tonight with Michelle Montague, Marketing Manager with Suzlon USA.

Background data

1) March 20, 2007: Public Meeting in Kenyon-Wanamingo Middle School Auditorium at 6:30 p.m.. During Q&A period, I addressed a specific question to Ms.Montague requesting she send me a copy of the FMEA that she described during her presentation that evening. As Ms.Montague declared herself as "not a technical expert", she assured me that she would provide me a timely answer from her technical staff.

2) March 21, 2007: E-mail received from Ms.Montague explaining that her techical resource at Suzlon was out of the office until the following Monday (March 26th). Her e-mail (to be sent under separate cover) stated: "I wanted to let you know that the lead engineer that can help me answer your questions will not be available until Monday. My plan is to speak with him then and learn more about the FMEA process and better answer your questions. Your patience is appreciated."

3) March 29, 2007: As no contact received from Ms.Montague, I sent follow-up e-mail to her: "Please forward me a copy of Suzlon's FMEA as soon as possible, as discussed at the Public Meeting. I look forward to hearing from you as soon as possible. If you need to discuss next steps, please call me on my personal cell phone at 507-272-4949. Thank you, in advance for your timely reply."

4) April 4, 2007: Still no reply from Ms.Montague. Another e-mail sent, along with string of former requests, stating:
 "Please forward me a copy of Suzlon's FMEA as soon as possible, as discussed at the Public Meeting. I look forward to hearing from you as soon as possible. If you need to discuss next steps, please call me on my personal cell phone at 507-272-4949. Thank you, in advance for your timely reply."

5) This evening at ~6:45 p.m. CDT, recalling Ms.Montague's phone numbers shown on her e-mails, I called her cell phone number. During this conversation, Ms.Montague indicated that Suzlon had an agreement with "The Daniels" that they would be in contact with me regarding any communications--due to their customer relationship with Suzlon.

I replied that I had had no information nor any contact from anyone at Kenyon Wind LLC regarding my request for a copy of the FMEA. She then stated that Suzlon had already provided the information to Kenyon Wind LLC and had requested them "on three occasions to send me this information". I assured her that I had heard nothing from them. She then closed our conversation saying that she encouraged me to contact John or Lisa Daniels for this information, but that she could not fulfill her earlier promise to me to provide the FMEA information due to this subsequent agreement with them. Ms. Montague sounded quite sincere in her frank comments regarding this situation, and seemed as distressed as I regarding the inavailability of this information to me.

It appears to me that officials of Kenyon Wind LLC are interfering with my request to Suzlon for this information, which is not uniquely specific to the Kenyon Wind LLC proposal--noting that the original failure of two Suzlon S88 turbines occurred on an installation not affiliated with Kenyon Wind LLC. This FMEA information is important, however, to assess the matters of safety raised about Kenyon Wind LLC's proposal to site these specific turbines in rural Kenyon.

I will forward the cited e-mails under separate cover.

This information may be of use to you in preparing our request for a Contested Case Hearing.

Regards,
Mike Chase
President, CFERS, LLC